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**IN THE
COURT OF APPEALS OF INDIANA**

ROBERT WEBB,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 18A02-0702-CR-133
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE DELAWARE CIRCUIT COURT
The Honorable John M. Feick, Judge
Cause No. 18C04-0312-FA-6

July 27, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Robert Webb appeals the revocation of his placement in a community corrections program in Delaware Circuit Court. He raises the following issues:

I. Whether the trial court abused its discretion by admitting certain evidence over Webb's chain of custody objection; and,

II. Whether sufficient evidence supports the revocation of his placement on home detention.

We affirm.

Facts and Procedural History

In December 2004, Webb pleaded guilty to two counts of Class C felony possession of a controlled substance and was sentenced to concurrent terms of four years with all time suspended but time served and twenty-two months on electronic in-home detention through a community corrections program. On May 9, 2006, the State filed a petition to revoke Webb's probation, alleging that he had tested positive for marijuana and cocaine, submitted diluted urine screens, and left home without permission, all in violation of the terms of his probation. Appellant's App. p. 133. In addition, the State alleged that Webb's monitoring equipment had been disconnected from both the power source and telephone service. *Id.* On July 6, 2006, the State amended the petition with additional allegations that Webb tested positive for opiates and that his ankle-bracelet transmitter showed evidence of tampering. Appellant's App. p. 145.

Following an evidentiary hearing on January 17, 2007, the trial court revoked Webb's probation and reinstated his four-year sentence in the Department of Correction. Webb now appeals.

Discussion and Decision

First, Webb claims that the trial court erred with respect to the admission of the results of three drug screens. Specifically, he argues the State failed to establish the chain of custody of the urine specimens he submitted.

The State bears a higher burden to establish the chain of custody of ‘fungible’ evidence, such as blood and hair samples, whose appearance is indistinguishable to the naked eye.” Troxell v. State, 778 N.E.2d 811, 814 (Ind. 2002). The State must give reasonable assurances that the evidence remained in an undisturbed condition to establish a proper chain of custody. Id. It is not necessary for the State to establish a perfect chain of custody, and once the State strongly suggests the exact whereabouts of the evidence, any gaps go to the weight of the evidence and not its admissibility. Id. Furthermore, there is a presumption of regularity in the handling of evidence by officers, and there is a presumption that officers exercise due care in handling their duties. Id. One must present evidence that does more than raise a mere possibility that the evidence may have been tampered with to mount a successful challenge to the chain of custody. Id.

Bussberg v. State, 827 N.E.2d 37, 42 (Ind. Ct. App. 2005), trans. denied.

Webb argues that the facts here are distinguishable from Bussberg because there was no “testimony as to the collection by a probation officer in his presence and the method of handling the specimen and the procedure used in testing[.]” Br. of Appellant at 15. In a probation revocation proceeding, judges may consider any relevant evidence bearing some substantial indicia of reliability. Bussberg, 827 N.E.2d at 42 (citing J.J.C. v. State, 792 N.E.2d 85, 87 (Ind. Ct. App. 2003)). Here, the supervisor of the home detention program testified that each of Webb’s urine samples was handled following the proper custody procedures. See tr. pp. 13-25. In addition, the State offered into evidence the chain of custody forms indicating when Webb’s urine samples were collected and by whom. Ex. Vol., State’s Exs. 2-9. Webb directs us to no evidence supporting his claim

of gaps in the chain of custody. Therefore, we conclude that the trial court properly admitted the results of the urine sample drug screens.

Next, Webb argues that insufficient evidence was presented to support the trial court's revocation of his placement. Placement in a work release program is "an alternative to commitment to the [D]epartment of [C]orrection." Ind. Code § 35-38-2.6-3(a) (2004 & Supp. 2007). Placement in a work release program is not an entitlement, "but, as with probation, placement in the program is a matter of grace and a conditional liberty that is a favor, not a right." Patterson v. State, 750 N.E.2d 879, 882 (Ind. Ct. App. 2001) (citing Pavey v. State, 710 N.E.2d 219, 221 (Ind. Ct. App. 1999)). When a court orders placement in a work release program, reasonable terms may be imposed. Ind. Code § 35-38-2.6-3(a). If a person violates the terms of his placement, the trial court may, after a hearing, revoke his placement and commit him to the Department of Correction. Ind.Code § 35-38-2.6-5 (2004).

As set forth above, the State presented evidence that Webb tested positive for marijuana, cocaine, and opiates, left his home without permission, and attempted to tamper with his monitoring equipment. Ex. Vol., State's Exs. 1-9; Tr. pp. 25-32. Webb essentially asks that we reweigh the evidence, which we will not do. Sufficient evidence supports the revocation of Webb's probation.

Affirmed.

DARDEN, J., and KIRSCH, J., concur.